



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 12th day of October, 1999

Served: October 15, 1999

Essential Air Service At

**CHATHAM, ALASKA  
FUNTER BAY, ALASKA**

under 49 U.S.C. 41731 *et seq*

**Docket OST 1997-3134**

**ORDER TENTATIVELY RESELECTING CARRIER**

**Summary**

By this order, the Department is tentatively reselecting Ward Air, Inc. to provide subsidized essential air service Chatham and Funter Bay, Alaska, for the two-year period beginning December 1, 1999, through November 30, 2001, at an annual subsidy rate of \$9,420 (see Appendix A for a map).

**Background**

Ward Air, Inc. was last selected to provide essential air service at Chatham and Funter Bay by Order 97-11-32 dated November 18, 1997. The annual subsidy rate of \$9,187 established by that order will expire November 30, 1999.

Under our normal procedures when nearing the end of a rate term, we contact the incumbent carrier to determine whether it is interested in continuing service and whether it will continue to require subsidy. If the carrier wishes to continue service with subsidy, we usually negotiate a new subsidy rate with the carrier, issue an order tentatively reselecting the carrier for a new rate term at the agreed rate, and direct other parties to show cause why we should not finalize our tentative decision. Other carriers wishing to submit competing proposals are invited to do so in response to the show-cause order; if any such proposals are filed, we process them as a competitive case. Consistent with that practice, when we contacted Ward Air we were advised that the carrier was interested in continuing to provide service at Chatham and Funter Bay.

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**Carrier Service Proposal**

In response to our inquiry Ward Air, Inc. indicated its desire to continue to provide the historical level of service at Chatham and Funter Bay at an annual subsidy rate of \$9,420

for a new two-year rate term. (See Appendix B to this order for a summary of the subsidy computation for Ward Air's proposal.) Ward Air will provide one round trip a week routed Juneau-Funter Bay-Juneau and one round trip a month routed Juneau-Funter Bay-Chatham-Funter Bay-Juneau. Service is to be provided with three-seat Cessna 185.

### **Essential Air Service Determination**

The essential air service determination for each community, as established by Order 80-1-167, January 25, 1980, requires one round trip a week between Funter Bay and Juneau and one round trip a month between Chatham and Juneau. Service may not exceed two intermediate stops between Funter Bay and Juneau or three stops between Chatham and Juneau and may be provided with small aircraft--ten or fewer seats.

### **Tentative Reselection**

We find both the service and the subsidy aspects of Ward Air's proposal to be reasonable. We also note that Ward Air's service at both points has been satisfactory. Based on these findings, we tentatively reselect Ward Air to provide essential air service at Chatham and Funter Bay as detailed in Appendix C, for an additional two-year period, beginning November 1, 1999, for an annual subsidy rate of \$9,420.

### **Objections or Proposals**

As usual, we will allow interested parties 20 days to object to our decision and/or to file competing proposals. If no timely objections or competing proposals are filed this order will automatically become final. We expect persons objecting to our tentative decision to support their objections with relevant and material facts. We will not entertain general, vague, or unsupported objections

Carriers interested in filing competing proposals, with or without subsidy requests, should file them within the 20-day period set for objections. At the end of that period, our staff will docket any competing proposals, thereby making them public, and direct each carrier to serve a copy of its proposal on the civic parties and other applicants. Each applicant, including the incumbent, will then have an opportunity to finalize its proposal in rate discussions with Department staff before we seek final community comments. We will give full consideration to all proposals that are timely filed.

If no timely objections or competing proposals are filed, this order will automatically become final. In order to assist interested carriers in developing traffic and revenue projections for their service proposals, we have summarized

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the historical origin-destination traffic for Chatham and Funter Bay by quarter and direction in Appendix D.

### **Procedures for Filing Proposals**

For interested carriers unfamiliar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling

carrier replacement cases under 49 U.S.C. 41734(f) and discusses in detail the process of requesting proposals, conducting reviews of applicants, and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, a copy of Part 204 of our regulations (14 CFR 204), and schedules setting forth our recommended form for submitting data required for calculating compensation and determining the financial and operational ability of applicants to provide reliable essential air service. (Section 204.4 describes the fitness information required of all applicants for authority to provide essential air service.) Applicant carriers that have already submitted this information in another case need only resubmit it if a substantial change has occurred. However, if there are more recent data or if there have been any changes to the information on file, carriers should provide updates of those information elements. Interested carriers that need to obtain copies of these documents may contact the Office of Aviation Analysis at (202) 366-1053.

### **Community and State Comments**

If we receive competing proposals, the communities and State are welcome to submit comments on the proposals at any time.<sup>1</sup> Early in the proceeding, comments on the perceived strengths and weaknesses of the proposals would be particularly helpful to the Department, although the civic parties may also express a preference for a particular carrier or proposal option at that time, if they choose. In any event, after we conclude rate conferences with all applicants, we will provide a summary of the conference results to the civic parties and ask them to file their final comments.<sup>2</sup>

### **Other Carrier Requirements**

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces and nondiscrimination.<sup>3</sup> Consequently, all

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carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces

### **Other Carrier Requirements**

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<sup>1</sup> Civic parties should file an original and five copies of their comments in Docket OST 1997-3134. This filing should be addressed to: Documentary Services Division, Office of the Secretary, Department of Transportation, Room PL-401, SVC-124.10, 400 7<sup>th</sup> Street, S.W., Washington D.C. 20590.

<sup>2</sup> In cases where a carrier proposes to provide full essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy free-service.

<sup>3</sup> The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions of Lobbying, implementing title 31, United States Code, section 1352, entitled, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants), implementing the Drug-Free Workplace Act of 1988; and (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces and nondiscrimination.<sup>4</sup> Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

### **Carrier Fitness**

49 U.S.C. 41737(b) and 41738 require that we find a carrier fit, willing, and able to provide reliable service before we may compensate it for essential air service. In that regard, Ward Air has conducted successful operations for a number of years. The Federal Aviation Administration has advised us that the carrier is conducting its operations in accordance with its regulations, and knows of no reason why we should not find that Ward Air, Inc. remains fit. The Department has routinely monitored the carrier's operations, and no information has come to our attention that would lead us to question its ability to operate in a reliable manner.

This order is issued under authority delegated in 49 CFR 1.56a(f).

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ACCORDINGLY,

1. The Department tentatively reselects Ward Air, Inc. to provide essential air service at Chatham and Funter Bay, Alaska, as described in Appendix C, for the period beginning December 1, 1999, through November 30, 2001;

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<sup>4</sup> The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions of Lobbying, implementing title 31, United States Code, section 1352, entitled, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants), implementing the Drug-Free Workplace Act of 1988; and (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

2. The Department sets the final rate of compensation for Ward Air, Inc. for the provision of essential air service at, Chatham and Funter Bay, Alaska, at \$9,420 per year, as described in Appendix C, payable as follows:

For each calendar month during which essential air service is provided at Funter Bay, the amount of compensation shall be subject to the ceiling per month of \$588.72 for four-week months or 735.90 for five-week months.

For each calendar month during which essential air service is provided at Chatham, the amount of compensation shall be subject to the ceiling per month of \$147.18 and shall be determined by multiplying the number of subsidy eligible arrivals at and departures from each eligible point during the month by \$73.59;<sup>5</sup>

3. The Department finds Ward Air, Inc. fit, willing, and able to provide limited scheduled service proposed here and is capable of providing reliable essential air service at Chatham and Funter Bay, Alaska;

4. The Department requests that interested parties show cause within 20 days of the date of service of this order why we should not make final the tentative findings and conclusions set forth above. Objections should be filed with the Documentary Service Division of the Department of Transportation, SVC-124.10, 400 7<sup>th</sup> Street, S.W., Washington, D.C. 20590. Carriers interested in filing competing proposals to serve Chatham and Funter Bay, Alaska, should submit their proposals, with subsidy requests if necessary, within 20 days of the date of service of this order. Proposals should include all the data required by section 204.4 of our Regulations (14 CFR 204.4). An original and five copies of the proposal should be sent to the EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7<sup>th</sup> Street, S.W., Washington, D.C. 20590, with the Title, "Proposal to Provide Essential Air Service at Chatham and Funter Bay, Alaska, Docket OST 1997-3134";

5. The Department directs Ward Air, Inc. to retain all books, records, and other source and summary documentation to support subsidy claims for payment and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be

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retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;

6. This docket will remain open until further order of the Department;

7. If no objections or competing proposals are filed, all further procedural steps will be deemed to have been waived, and the carrier selection tentatively made by this order shall become effective on the twenty-first day after the date of service of this order;

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<sup>5</sup> See Appendix C for calculations.

8. In the event timely objections or competing proposals are filed, the rates tentatively established in ordering paragraph (2) above, shall be effective as a final rates until further Department action; and

9. Department will serve a copy of this order on the community of Chatham and Funder Bay, Alaska, the Governor of Alaska, the Alaska Department of Transportation and Public Facilities, Ward Air and the carriers listed in Appendix E.

By:

**A. BRADLEY MIMS**  
Acting Assistant Secretary for  
Aviation and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at  
<http://dms.dot.gov>  
The electronic version may not include all of the appendices*

Appendix A

EAS Map Will Be Supplied  
On Request (202) 366-1055

**Annual Compensation Projection**  
 For Essential Air Service At  
 Chatham and Funter Bay, Alaska \_\_\_\_\_

Block Hours: 1/ 38

<u>Revenue Estimate</u>		<u>Fare/ Rate</u>	<u>Totals</u>
		( \$ )	( \$ )
Passengers FNR	52	45.00	2,340
Passengers CYM	1	81.00	81
Cargo (pounds) FNR	720	.20	144
Cargo (pounds) CYM	100	.35	35
Total Revenue			<u>2,600</u>

	<u>Block Hours</u>	<u>Rate per Block Hr.</u>	<u>Totals</u>
<u>Direct Expense</u>		( \$ )	( \$ )
Pilot & Copilot	38	65.00	2,470
Fuel & Oil	38	39.00	1,482
Insurance	38	47.50	1,805
Maintenance	38	46.00	1,748
Depreciation	38	13.25	<u>504</u>
Subtotal Direct			8,009

<u>Indirect Expense</u>			
Hangar		38.00	1,444
Overhead		52.50	<u>1,995</u>
Subtotal Indirect			3,439

Total Operating Expense 11,448

Return (at 5% of TOC) 572

Total Economic Cost 12,020

Annual subsidy need

At 100% completion 9,420

1/ JNU-FNR-CYM-JNU: (90 min/trip x 12 trips a yr) divided by  
 60 = 18 annual hrs + JNU-FNR-JNU (30 min/trip x 40 trips a yr.)  
 divided 60 = 20 annual hrs.

ESSENTIAL AIR SERVICE TO BE PROVIDED  
AT CHATHAM AND FUNTER BAY, ALASKA

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EFFECTIVE PERIOD: For the two-year period from December 1, 1999, through November 30, 2001

SERVICE: One round trip a week routed Juneau-Funter Bay-Juneau and one round trip routed Juneau-Funter Bay-Chatham-Funter Bay-Juneau.

AIRCRAFT TYPE: Cessna 185

RATE PER CHATHAM AND FUNTER  
BAY ARRIVAL/DEPARTURE:<sup>6</sup> \$73.59

MONTHLY COMPENSATION  
CEILING:<sup>7</sup>

<u>Funter Bay</u>	
4-WEEK MONTH	\$588.72
5-WEEK MONTH	\$735.90
<u>Chatham</u>	\$147.18

Appendix C  
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**NOTE**

The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed

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<sup>6</sup> Annual subsidy \$9,420 divided by 128 departures (52 annual EAS arrivals at Funter Bay from Juneau + 52 EAS departures from Funter Bay to Juneau and 12 annual EAS arrivals at Chatham + 12 EAS departures from Chatham).

<sup>7</sup> Calendar weeks that fall into separate calendar months will be treated as part of the later month for the purpose of calculating both calendar weeks per month and the monthly compensation:

Funter Bay	4-week month	\$73.59 x (4 arrivals + 4 departures).
Funter Bay	5-week month	\$73.59 x (5 arrivals + 5 departures).
Chatham		\$73.59 x (1 arrival a month + 1 departure a month).



flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of this rate, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

Chatham and Funter Bay O&D Traffic  
12 Months Ended March 1999

	<u>2ndQ 98</u>	<u>3rdQ 98</u>	<u>4thQ 98</u>	<u>1stQ 99</u>	<u>Total</u>
<u>Passengers:</u>	1	0	7	0	8
Chatham-Juneau	<u>1</u>	<u>2</u>	<u>2</u>	<u>1</u>	<u>6</u>
Juneau-Chatham	2	2	9	1	14
Total					
Funter Bay-Juneau	1	7	2	0	10
Juneau-Funter Bay	<u>5</u>	<u>6</u>	<u>7</u>	<u>5</u>	<u>23</u>
Total	6	13	9	5	33
<u>Cargo (lbs):</u>					
Chatham-Juneau	0	0	23	0	23
Juneau-Chatham	<u>0</u>	<u>300</u>	<u>137</u>	<u>100</u>	<u>537</u>
Total	0	300	160	100	560
Funter Bay-Juneau	62	77	17	0	156
Juneau-Funter Bay	<u>241</u>	<u>387</u>	<u>257</u>	<u>430</u>	<u>1,315</u>
Total	303	464	274	430	1,471
<u>Mail (lbs)</u>					
Chatham-Juneau	3	4	3	3	13
Juneau-Chatham	<u>6</u>	<u>5</u>	<u>5</u>	<u>188</u>	<u>204</u>
Total	9	9	8	191	217
Funter Bay-Juneau	165	316	142	165	788
Juneau-Funter Bay	<u>662</u>	<u>630</u>	<u>943</u>	<u>407</u>	<u>2,642</u>
Total	827	946	1,085	572	3,430

Chatham and Funter Bay O&D Traffic  
12 Months Ended March 1998

	<u>2ndQ 97</u>	<u>3rdQ 97</u>	<u>4thQ 97</u>	<u>1stQ 98</u>	<u>Total</u>
<u>Passengers:</u>					
Chatham-Juneau	0	0	0	0	0
Juneu-Chatham	<u>2</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>4</u>
Total	2	0	2	0	4
Funter Bay-Juneau	3	4	6	3	16
Juneau-Funter Bay	<u>3</u>	<u>4</u>	<u>13</u>	<u>3</u>	<u>23</u>
Total	6	8	19	6	39
<u>Cargo (lbs):</u>					
Chatham-Juneau	0	0	0	0	0
Juneu-Chatham	<u>0</u>	<u>0</u>	<u>500</u>	<u>0</u>	<u>500</u>
Total	0	0	500	0	500
Funter Bay-Juneau	62	60	95	0	217
Juneau-Funter Bay	<u>241</u>	<u>58</u>	<u>347</u>	<u>251</u>	<u>897</u>
Total	303	118	442	251	1,114
<u>Mail (lbs)</u>					
Chatham-Juneau	6	2	5	5	18
Juneu-Chatham	<u>3</u>	<u>9</u>	<u>28</u>	<u>22</u>	<u>62</u>
Total	9	11	<u>33</u>	27	80
Funter Bay-Juneau	165	193	311	119	788
Juneau-Funter Bay	<u>667</u>	<u>2</u>	<u>934</u>	<u>634</u>	<u>2,237</u>
Total	832	195	1,245	753	3,025

Service List Will Be Supplied  
On Request (202) 366-1055